



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 22, 1996

Ms. Lan P. Nguyen
Legal Department
Assistant City Attorney
City of Houston
P. O. Box 1562
Houston, Texas 77251-1562

OR96-2181

Dear Ms. Nguyen:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101922.

The City of Houston Police Department (the "department"), which your office represents, received a request for "any and all information pertaining to an alleged rape incident, by claimant [a certain named individual]." You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." Gov't Code § 552.108; see *Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). Since the records at issue come within the purview of section 552.108, we conclude that most of the information at issue may be withheld under this section.

We note, however, that information normally found on the front page of an offense report is generally considered public.¹ *Houston Chronicle Publishing Co. v. City of Houston*, 531

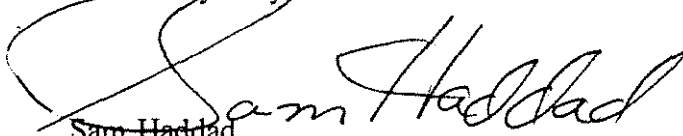
¹The content of the information determines whether it must be released in compliance with *Houston Chronicle*, not its literal location on the first page of an offense report. Open Records Decision No. 127 (1976) contains a summary of the types of information deemed public by *Houston Chronicle*.

S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). We therefore conclude that, except for front page offense report information, section 552.108 excepts the requested records from required public disclosure.

We note that some information revealed in the submitted records and subject to disclosure as front page offense report information is excepted from required public disclosure under common-law privacy. Specifically, when the information relates to a sexual assault or other sex-related offense, any information which either identifies or tends to identify the victim must be withheld under the common-law right of privacy, in conjunction with section 552.101 of the Government Code. See Open Records Decision Nos. 339 (1982), 205 (1978). We conclude that the front page offense report information must be withheld, as it is excepted from required disclosure pursuant to common-law privacy in conjunction with section 552.101 of the Government Code. Consequently, the department must withhold the entire offense report.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in dark ink, appearing to read "Sam Haddad", is written over a large, stylized, handwritten "S" that serves as a flourish or initial.

Sam Haddad
Assistant Attorney General
Open Records Division

SH/ch

Ref.: ID# 101922

Enclosures: Submitted documents

cc: Mr. Jose Tellez
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(w/o enclosures)